
OLR Bill Analysis

sHB 5517 (as amended by House "A")*

AN ACT CONCERNING EXECUTIVE BRANCH DATA MANAGEMENT AND PROCESSES.

SUMMARY

This bill establishes data requirements for executive branch agencies, including (1) authorizing the Chief Data Officer (CDO) to direct agencies on data-related topics, (2) requiring a biennial state data plan, and (3) establishing a Connecticut Data Analysis Technology Advisory Board. In current practice, Executive Order 39 established similar requirements for executive branch agencies (see BACKGROUND).

The bill authorizes the Office of Policy and Management (OPM) secretary to designate an existing employee to serve as the CDO to direct executive branch agencies (defined by the bill to exempt the Board of Regents of higher education) on data use, management, sharing, coordination, and formulation of the state data plan and transparency plans.

The bill requires the CDO to create the state data plan by which the information technology-related actions and initiatives of all executive branch state agencies must conform. It correspondingly requires executive agencies to annually inventory their data assets, submit the inventory to OPM, and designate an agency data officer; conforming to current practice. It allows other agencies to voluntarily comply with these open data requirements.

The bill establishes a 16-member Connecticut Data Analysis Technology Advisory Board within the legislative branch to advise the executive, legislative, and judicial branches and municipalities on data policy. It also requires OPM to continue operating and maintaining the Open Data Portal.

The bill expands participation in LEANCT, the statewide government process improvement initiative, to all executive agencies (including higher education) and codifies the Statewide Process Improvement Steering Committee. It also expands state agencies' ability to suspend paper filing or document service requirements. It allows them to require the electronic filing or service of any documents or data (1) required to be submitted to them by any provision of federal or state law, any regulation adopted by an agency, any order, or any license or (2) otherwise filed with the agency or served on others in formal or informal proceedings.

The bill requires municipalities that possess digital property data to annually submit the data to their regional council of government (COG), and COGs to annually provide a list of non-compliant and exempt municipalities to OPM and the legislative committee of cognizance.

Finally, it allows immediate family members to be employed in the same department or division of the constituent units of higher education, provided that procedures have been implemented to prevent any conflicts of interest.

*House Amendment "A" replaces the underlying bill with similar provisions. It changes the terms of the advisory board members and removes the requirements for (1) board approval of the state data plan and (2) reporting on the fulfillment status of requests for public data. It also adds the provisions regarding digital parcel data and higher education state employees.

EFFECTIVE DATE: Upon passage, except that provisions on the process improvement initiative and electronic filing take effect on July 1, 2018.

§ 1 — OPEN DATA CATEGORIES

The bill categorizes data based on how it is used or applied. In regard to executive branch agencies, it defines "high value data" as any data that the department head determines:

1. can increase an agency's accountability and responsiveness, improve public knowledge of an agency and its operations, further its core mission, or create economic opportunity;
2. is critical to the agency's operation, frequently requested by the public, or used to satisfy any legislative or other reporting requirements; or
3. responds to a need and demand identified through public consultation.

Under the bill, "open data" is any data that is:

1. freely available in a convenient and modifiable format and can be retrieved, downloaded, indexed, and searched;
2. formatted in a manner that allows for automated processing;
3. free of restrictions governing use;
4. published with the finest possible level of detail practicable and permitted by law; and
5. described in enough detail so that the data's users can understand the strengths, weaknesses, analytical limitations, and security requirements, and how to process it.

It also defines the terms "data," "public data," and "protected data." Under the bill, "data" means final versions of statistical or factual information that (1) is reflected in a list, table, graph, chart, or other non-narrative form and can be digitally or non-digitally transmitted or processed; (2) is regularly created or maintained by or on behalf of an executive agency; and (3) records a measurement, transaction, or determination related to the agency's mission or is provided to the agency pursuant to law.

It defines "public data" as any data collected by an executive branch agency that may be made public, consistent with any and all applicable laws, rules, regulations, ordinances, resolutions, policies or other

restrictions, requirements, or rights associated with the data, including contractual or other legal orders, restrictions, or requirements.

Under the bill, “protected data” means any data, the public disclosure of which would (1) violate federal or state laws or regulations; (2) endanger the public health, safety, or welfare; (3) hinder the operation of the federal, state, or municipal government, including criminal and civil investigations; or (4) impose an undue financial, operational, or administrative burden on the executive branch agency. It includes any records that are exempt from disclosure under the Freedom of Information Act.

§ 2 — EXECUTIVE BRANCH DATA

Chief Data Officer

The bill requires the OPM secretary to designate an agency employee to serve as the CDO. It charges the CDO with creating the state data plan, and in accordance with such plan, authorizes the officer to (1) direct executive branch agencies, except the Board of Regents for higher education, on the use and management of data to enhance the efficiency and effectiveness of state programs and policies; (2) facilitate the sharing and use of executive branch agency data between such agencies and with the public; and (3) coordinate data analytics and transparency master planning for executive branch agencies.

State Data Plan

By December 31, 2018, and biennially thereafter, the bill requires the CDO, in consultation with the agency data officers, and executive branch agency heads, to create a state data plan. The bill requires the information technology-related actions and initiatives of all executive branch agencies, including the acquisition of hardware and software and the development of software, to be consistent with the final data plan. The plan must:

1. establish management and data analysis standards across all executive branch agencies;

2. include specific, achievable goals within the two years following adoption of the plan, as well as longer term goals;
3. make recommendations to enhance standardization and integration of data systems and data management practices across all executive branch agencies;
4. provide a timeline for a review of any state or federal legal concerns or other obstacles to the internal sharing of data among agencies, including security and privacy concerns;
5. set goals for improving the online open data repository; and
6. provide for a procedure for each agency head to report to the CDO regarding the agency's progress toward achieving the plan's goals.

In addition, the bill allows the state data plan to make recommendations concerning data management for the legislative or judicial branch agencies, but it specifies that the recommendations are not binding on these agencies.

By November 1, 2018 and every two years after, the bill requires the CDO to submit a preliminary draft of the plan to the Connecticut Data Analysis Technology Advisory Board (§ 3). The board must then hold a public hearing on the draft and submit any suggested revisions to the CDO within 30 days after receipt. After receiving any recommended revisions from the board, the CDO must then finalize and submit the final plan to the board, send a copy of the plan to all agency data officers, and post it on OPM's website.

Open Data Portal and Data Inventory

The bill conforms law with practice by requiring OPM to operate and maintain an open data portal. It requires each executive branch agency, by December 31, 2018, and annually thereafter, to (1) inventory, in a format determined by the CDO, its high value data and (2) submit the inventory to the CDO and the Connecticut Data Analysis Technology Advisory Board. In doing so, agencies must

presume the data to be public, unless it is classified otherwise.

The bill requires each executive branch agency to develop an open data access plan, in a form prescribed by OPM, and detail the agency's plan to publish, as open data, any public data that the agency has identified and any protected data that can be made public through aggregation, redaction of individually identifiable information, or other means sufficient to satisfy applicable state or federal law or regulation.

Agency Data Officers

The bill requires executive branch agencies to designate one employee in each agency as the agency data officer, conforming to current practice. The data officers serve as the agency point of contact for inquiries, requests, or concerns regarding access to data. The bill authorizes these agency data officers, in consultation with the CDO and agency head, to establish procedures to ensure that data requests are received and complied with in an appropriate and prompt manner.

Non-Executive Branch Agencies & Municipalities

The bill allows non-executive branch agencies, quasi-public agencies, and municipalities to voluntarily opt to comply with the open data provisions by submitting a written notice to OPM. These agencies and municipalities can opt out of voluntary compliance by submitting written notice to OPM. The bill requires OPM to create, maintain, publish on its website, and update as necessary a list of all agencies subject to the open data provisions, including those agencies and municipalities that have voluntarily opted to comply.

§ 3 — CONNECTICUT DATA ANALYSIS TECHNOLOGY ADVISORY BOARD

The bill establishes a 16-member Connecticut Data Analysis Technology Board within the Legislative Department to, among other things, advise the three branches of state government and municipalities on data policy.

Board Membership

By July 1, 2018, the House speaker, Senate president pro tempore, House minority leader, and Senate minority leader must each appoint two voting board members to serve two-year terms. These eight voting board members must have professional experience or academic qualifications in data analysis, management, policy, or related fields and not be legislators. Appointing authorities fill vacancies and terms are coterminous with the term of the appointing authority.

In addition, the board includes the following officials, or their designees, as non-voting ex-officio members:

1. the Commissioner of Administrative Services;
2. the executive director of the Freedom of Information Commission;
3. the Attorney General;
4. the Chief Court Administrator;
5. the State Librarian;
6. the State Treasurer;
7. the Secretary of the State;
8. the State Comptroller; and
9. the Chief Data Officer, serving as the board chairperson.

The bill allows any board member to serve more than one term.

Board Procedures

The bill requires the CDO to schedule and hold the first board meeting by August 1, 2018. The board must meet at least twice a year and may meet additional times as deemed necessary by the chairperson or a majority of the board members. It assigns the administrative staff of the Government Administration and Elections Committee to staff the board, with assistance as needed from

employees of the Office of Legislative Research (OLR) and Office of Fiscal Analysis (OFA).

Board Powers & Duties

The bill authorizes the board to have the following powers and duties:

1. advise the executive, legislative, and judicial branches and municipalities on data policy, including best practices in the public, private, and academic sectors for data analysis, management, storage, security, privacy and visualization, and using data to grow the economy;
2. advise OPM on the online data portal;
3. issue reports and make legislative recommendations;
4. upon the request of at least two board members, request any agency data officer or agency head to appear before the board to answer questions;
5. obtain from any executive department, board, commission or other agency of the state assistance and data necessary and available to carry out its power and duties;
6. make recommendations to the legislative leaders and the directors of OFA and OLR regarding data analysis skills and related expertise that the leaders and said offices may seek to cultivate among their staff through training or as a consideration when hiring staff; and
7. establish bylaws to govern its procedures.

§ 4 — LEANCT

The bill expands the scope of LEANCT, a statewide process improvement initiative. It requires OPM to establish and oversee the initiative to assist executive branch agencies with business process analysis to (1) streamline processes; (2) optimize service delivery

through information technology; (3) eliminate unnecessary work; (4) establish standardized work flows; and (5) prioritize available resources to promote economic growth, improve services, and increase workforce productivity. The bill also codifies the Statewide Process Improvement Steering Committee which supports the initiative. It designates the OPM secretary, or designee, as the committee's chairperson.

Under current law, OPM, within available appropriations, must contract for consultant services to apply LEAN practices and principles to the (1) permitting and enforcement processes of the departments of Energy and Environmental Protection, Economic and Community Development, Administrative Services, and Transportation that are most frequently used by business entities and (2) licensure procedures for commercial bus drivers that the departments of Consumer Protection, Emergency Services and Public Protection, and Children and Families currently perform.

§ 5 — ELECTRONIC FILING SYSTEM

The bill expands state agencies' ability to suspend paper filing or document service requirements. Under current law, a state agency may (1) suspend any requirements in its regulations governing its rules of practice for paper filing or document service for formal and informal agency proceedings and (2) establish an electronic filing system for the filings and service.

The bill expands this authority by allowing agencies to do the following:

1. suspend paper and facsimile submission requirements contained in any agency regulation, not just regulations governing the rules of practice as current law allows and
2. suspend paper data filing requirements, not just paper document filing requirements as current law allows.

The bill allows agencies to require the electronic filing or service of

such documents or data (1) required to be submitted to such agency by any provision of federal or state law, any regulation adopted by an agency, any order, or any license or (2) otherwise filed with the agency or served on others in formal or informal proceedings.

By law, a license includes all or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law (CGS § 4-166(8)).

By law and under the bill, before suspending the regulatory requirements or requiring electronic filing or service, the agency must give 30 days' notice on its website and in the Connecticut Law Journal, including instructions for using the electronic filing system. The bill requires the agency to maintain the instructions on its website for as long as it requires the electronic filing or service of documents or data. As under existing law, agencies must exempt from electronic filing any person that requests an exemption and provides written notice to the agency of a hardship (e.g., lack of access to a device capable of electronic filing).

§ 6 — DIGITAL PARCEL DATA

By May 1, 2019, the bill requires each municipality that possesses or contracts for services to create or maintain a digital parcel file (e.g., property boundaries) to annually transmit the file to its regional COG or, for towns that are not COG members, to the OPM Secretary. It requires these digital parcel files to include at a minimum:

1. any information from the assessor database that identifies a property's unique identifier in the file; size; address; value of the land, buildings, and other improvements; and year constructed and
2. any other information deemed necessary by the applicable COG.

It also requires each COG, starting by July 1, 2019, to annually submit to the OPM Secretary and the Planning and Development Committee a report that lists each municipality that (1) failed to

provide its digital parcel file and (2) does not possess a digital parcel file (and therefore would be exempt from the provision's requirements).

§ 7 — HIGHER EDUCATION STATE EMPLOYEES

The bill allows a state employee working at a constituent unit of higher education and his or her immediate family member to be employed in the same department or division, provided that procedures have been implemented to ensure that any final decisions impacting the financial interests of either employee are made by an unrelated state employee. This includes decisions to hire, promote, increase the compensation of, or renew the employment of such state employee.

BACKGROUND

Executive Order 39

Executive Order 39 established open data requirements for executive branch agencies. The executive order established the Connecticut Open Data Portal and established the position of Chief Data Officer, designated by the governor, to manage it with assistance from the Department of Administrative Services (DAS) and the Bureau of Enterprise Systems and Technology. Among other things, the order required the CDO to coordinate implementation, compliance, and expansion of the portal; assist state agencies in providing data sets to it; and coordinate initiatives to improve the data provided, including encouraging participation by other state entities and non-governmental organizations. It also established the governor-appointed Open Data Advisory Panel to advise the CDO on the performance of his specified duties.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/23/2018)